

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Andrew MacCormack et al.
Application No. : 09/239,907
Filed : January 29, 1999
Appeal No. : 2008-3215
For : DIGITAL RECEIVER DEMULTIPLEXER
Examiner : Fred H. Peng
Art Unit : 2426
Docket No. : 858063.435
Date : December 31, 2008

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REQUEST FOR REHEARING

Commissioner for Patents:

This Request for Rehearing is in furtherance of the Notice of Appeal, filed in this case on June 8, 2006, and is in response to the Decision on Appeal mailed October 31, 2008 in Appeal 2008-3215, and is made pursuant to 37 CFR Section 41.52. Appellants hereby request any fees necessary for acceptance of this Request for Rehearing be charged to Deposit Account No. 19-1090.

I. SUMMARY OF BASIS FOR REQUEST FOR REHEARING

Appellants believe the Decision on Appeal is internally inconsistent and respectfully request a rehearing to correct apparent errors in the Decision on Appeal. In the detailed discussion of claims 39-41 on pages 10-13, the Board reversed the Examiner's rejection of claims 39-41 as anticipated by Dokic. The Board then rejected claim 42 based on the Board sustaining the rejection of claim 39 (when in fact the Board did not sustain the rejection of claim 39). The Conclusion and Decision sections of the Decision on Appeal also incorrectly indicate the rejection of claims 39-41 was sustained, rather than reversed.

Appellants request correction or clarification so that Appellants and the Examiner can determine how to best to proceed in view of the Board's Decision on Appeal. In making this request, Appellants reserve the right to appeal or to take such other action as appropriate after a decision is rendered on Appellants' Request for Rehearing.

II. PERTINENT FACTS

In the Decision on Appeal, the Board did not sustain the Examiner's rejections of claims 39-41 as anticipated by U.S. Patent No. 5,959,659 issued to Dokic. Decision on Appeal at 10-13. Specifically, the Board found that Dokic does not disclose that control information is retrieved from the memory responsive to a match, and that claim 39 requires retrieving such control information from the memory. Decision on Appeal at 11. Thus, the Board did not sustain the Examiner's rejection of claims 39-41. Decision on Appeal at 13 ("Accordingly, we will not sustain the Examiner's rejection of claims 39-41.").

Nevertheless, the Decision on Appeal sustained the rejection of claim 42 (which depends from claim 39) on the basis that the Board had sustained the rejection of claim 39. Decision on Appeal at 18. In fact, however, the Board did not sustain the rejection of claim 39, as noted above. Thus, the rejection of claim 42 should not have been sustained. In addition, the Conclusion and the Decision incorrectly indicate that the rejections of claims 39-41 were sustained. Decision on Appeal at 18.

Appellants discussed the apparent errors in the Decision on Appeal with the Examiner and the Examiner suggested Appellants contact the Board. An attorney in the Board's offices indicated Appellants should file the present Request for Rehearing to seek correction of any errors in the Decision on Appeal.

III. CONCLUSION AND REQUEST FOR RELIEF

Appellants respectfully request the Board correct the Decision on Appeal to specifically reverse the rejection of claim 42 and to clarify in the Conclusion and Decision sections of the Decision on Appeal that the Examiner's rejections of claims 11, 13-20 and 39-42 were reversed.

Respectfully submitted,
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